

Te kaupapa whakatārewa me te whakataha reiti mō te Whenua Herekore Māori (MFL)

Rates Remissions and Postponement Policy for Māori Freehold Land

1. Introduction

The Bay of Plenty Regional Council (Council) uses rates remissions as a tool to provide for increased affordability and equity in the rating system. Council's Revenue and Financing Policy describes the funding sources for each activity which includes general and targeted rates.

Council's rates are applied based on location, value, size and/or services provided to the land. This system is applied across the region and the rates setting process considers affordability and equity at a macro level. Rates remissions are designed to allow for specific circumstances at an individual level that cannot be effectively or efficiently incorporated into the rating system based on the data that is used to set rates.

2. Policy context

Council has two principal policies covering Rates Remissions and Postponements. One sets out the rates relief available to all types of land and the other (this policy) deals with provisions for Māori Freehold Land and land with similar characteristics.

For the avoidance of doubt, Māori Freehold Land is eligible for rates remissions under both policies, subject to meeting the criteria in each.

3. Background

Māori Freehold Land makes up nearly 20% of the Bay of Plenty so is significant for our region. One of Council's five community outcomes is Te Ara Poutama, which focuses on strengthening partnerships to create a prosperous and equitable regional future.

Te Ture Whenua Māori Act 1993 (TTWMA) is the primary legislation governing Māori Freehold Land, the preamble to which sets fundamental principles within which the whenua Māori framework operates:

- recognise whenua Māori as a taonga tuku iho of special significance to Māori
- promote the retention of whenua Māori in the hands of its owners, their whanau, and their hapū
- to protect wahi tapu; and

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- to facilitate the occupation, development, and utilisation of whenua Māori for the benefit of its owners, their whanau, and their hapū.

Whenua Māori rates remission provisions have been developed against the backdrop of the guiding Te Ture Whenua principles, which have been recognised through the policy objectives.

4. Policy purpose

Council uses rates remissions as a tool to increase affordability and equity in the rating system. The Revenue and Financing Policy describes the funding sources for each activity which includes general and targeted rates.

Rates are applied based on location, value, size and/or services provided to the land. This system is applied across the region and the rates setting process considers affordability and equity at a macro level. The Rates Remissions and Postponement Policies are designed to allow for specific circumstances at an individual property level that cannot be effectively or efficiently incorporated into the rating system.

5. Legislative context

Non-rateable properties

The Local Government (Rating) Act 2002 (LGRA) sets categories of land that are wholly or partly non-rateable in Schedule 1. This includes all Māori customary land and any land that is:

- a Māori burial ground
- a Māori reservation
- a meeting place set apart under section 338 of the Te Ture Whenua Māori Act 1993
- land on which a meeting house is erected
- used for the purposes of a marae
- an unused rating unit of Māori Freehold Land.

An 'unused rating unit' is defined in the LGRA for the purpose of identifying Māori freehold land that qualifies as being non-rateable. Members of the community have told us that the use of the word 'unused' can carry unwelcome connotations of neglect and also infer that the land is not valued by its owners.

Council understands this may not reflect a te ao Māori understanding of land as a taonga tuku iho, also noting the inherent value of whenua in its own right irrespective of whether it is 'used' in a conventional sense. Māori have an intrinsic connection with the land based on whakapapa, which imposes an

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obligation on Māori as kaitiaki to maintain and protect land for future generations. Unique features on Māori land that carry historical and spiritual significance can also make development or occupation undesirable.

Council acknowledges that from a te ao Māori perspective, land is valued for a multitude of reasons other than as a resource to be used or developed for human benefit; land can have intrinsic cultural, historical, and environmental value irrespective of prevailing perceptions of utilisation.

Although Council must shape its policies in line with the legislative definition of “unused” in LGRA Schedule 1, it also acknowledges te ao Māori views on this.

Properties treated as a single unit

LGRA s20A provides that people using two or more rating units of Māori Freehold Land may apply to Council to have them treated as one unit for rating purposes. Council must treat them as one rating unit if:

- the units are used jointly as a single unit by the person and
- Council is satisfied the units are derived from, or are likely to have been derived from, the same original block of Māori freehold land.

6. Interpretation

For the purpose of this policy, Māori Freehold Land means:

- Land whose beneficial ownership has been determined by the Māori Land Court by freehold order (as defined in Local Government (Rating) Act 2002); or
- At Council’s discretion, former Māori freehold land whose status was changed to General Land under the Māori Affairs Amendment Act 1967; or
- Land whose status is General land owned by Māori (as defined in Te Ture Whenua Māori Act 1993 and administered by the Māori Land Court); or
- Any land, regardless of its status, returned to a Māori trust, iwi, hapū or other entity, by the Crown or Local Government body, as redress or compensation for a historic wrongdoing or breach of the Treaty of Waitangi.

7. Policy principles and approach

Council supports the principles in the Preamble to Te Ture Whenua Māori Act 1993, in particular recognises that land is a taonga tuku iho of special significance to Māori people and, for that reason, wishes to promote the retention of that land in the hands of its owners, their whanau, and their hapu, and to protect wahi tapu: and to facilitate the utilisation of that land for the benefit of its owners, their whanau, and their hapū.

Council also recognises that the development of Māori Freehold Land benefits the community as a whole, by providing environmental and cultural benefits, employment and economic opportunities and helps improve the prosperity of the region.

Council believes that where land tenure restricts the development and tradability of land, an increase in land value resulting from potential (but unrealised) land use, should not of itself result in increased liability for rates.

Council generally uses rates remissions in preference to rates postponements because rates postponements accumulate a debt over time which could undermine the overall purpose of providing for affordability (by creating a larger burden over time) and equity (because an inequitable rated amount should be waived). In some circumstances, however, rates postponements are appropriate, especially where affordability changes over time and so postponement may achieve equity over time.

8. General remission of rates on Māori Freehold Land

8.1. Objectives

- To recognise the different categories of Māori land and land owned by Māori that are in multiple ownership and/or held in accordance with tikanga.
- To recognise that historically some former Māori Freehold Land was converted to General Land without the permission of the owners.
- To recognise that the economic benefit of land ownership is different between Māori Freehold Land and land in general ownership.
- To establish a practical mechanism through which different characteristics of land within a single property title can be treated differently for rating purposes.

8.2. Rates remissions available

Council may remit up to 100% of rates (including any penalties that may have been assessed) on the area of land that meets the criteria and conditions set out below.

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Council may choose to remit rates to reflect the difference between the rating value of the land (highest and best use) and the estimated value (as determined by Council) based on the actual use of the land.

Council may approve a multi-year remission if the owners or trustees provide an undertaking to notify Council of any proposed changes in use that may affect the remission.

Council may consider writing off rates arrears (including any penalties) that have been assessed.

8.3. Eligibility, conditions and criteria

Noting the land made non-rateable by the LGRA Schedule 1, the following types of land will be eligible for remission:

- Land used for Traditional or Māori cultural purposes that excludes or prevents use for economic or housing purposes.
- Land subject to waahi tapu or other cultural considerations that makes the land unsuitable for economic or housing purposes.
- Land that provides valuable preservation of the natural character of the coastal environment, protection of outstanding natural features or protection of significant indigenous vegetation and significant habitats of indigenous fauna.
- Land where there is no identifiable trust, person or owner gaining any benefit from the land.

9. Remission and postponement of rates on Māori Freehold Land that is being developed for economic use

9.1. Objectives

- To recognise that land is a taonga tuku iho of special significance to Māori people and, for that reason, to promote the retention of that land in the hands of its owners, their whanau, and their hapu, and to facilitate the development, and utilisation of that land for the benefit of its owners, their whanau, and their hapū.
- to recognise that development of Māori freehold land is likely to benefit the region by creating new employment opportunities and increasing Council's rating base in the long term, as well as providing benefits to the owners.
- to encourage development of Māori freehold land, particularly where payment of rates at the start of a project may be a barrier to the development proceeding.

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9.2. Legislative context

Council recognises the statutory remission that may be applied for Māori freehold land under development in section 114A Local Government (Rating) Act 2002 and has incorporated the purpose, objectives and required considerations into this policy.

9.3. Conditions and criteria

- Council may remit or postpone all or part of the rates on a pro-rata basis for the area of the land that is proposed to be developed.
- The maximum term of the remission will be agreed in advance based on the development plan, and will generally be for five years or less
- Council will determine —
 - (a) How long a remission will apply, and whether the proportion of rates remitted varies during different stages of a development; and
 - (b) Whether a remission is subject to any conditions specified by Council, including:
 - (i) Providing information to establish the extent to which paying rates would be a barrier to development.
 - (ii) Commencing the development or meeting agreed progress milestones
- In determining the proportion of rates to remit during development, and for how long rates will be remitted, Council will consider:
 - (a) The duration of development and its stages
 - (b) For commercial developments, when the development is likely to generate income (cash or otherwise)
 - (c) Whether the type of development typically has a long period after initial development before income is generated, and whether rates postponement for a period following an initial remission would provide an equitable outcome.
- For rates that are postponed, payment of the rates will generally become due when income (cash or otherwise) is received. A payment plan may also be negotiated, taking into account forecast cash flows and financing opportunities available.

10. Remission of rates on Māori Freehold Land that is being developed for papakāinga or other housing/accommodation

10.1. Objective

To recognise that land is a taonga tuku iho of special significance to Māori and, for that reason, to promote the retention of that land in the hands of its owners, their whanau, and their hapu, and to facilitate the occupation and utilisation of that land for the benefit of its owners, their whanau, and their hapū.

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10.2. Legislative context

Council recognises the statutory remission that may be applied for Māori freehold land under development in section 114A Local Government (Rating) Act 2002 and has incorporated the purpose, objectives and required considerations into this policy.

10.3. Conditions and criteria

Council may remit up to 100% of the rates on a pro-rata basis for the area of the land that is proposed to be developed for Papakāinga or other housing/accommodation and associated infrastructure support. This remission may be applied until the development is likely to be able to be occupied (based on the initial development plan), which may include partial phasing out of remissions as areas are intended to be occupied.

The maximum term of the remission will be agreed in advance based on the development plan and will generally be for five years or less. In exceptional circumstances this period may be extended, provided accommodation has not yet been occupied.

11. Decision-making and administrative matters

- Decisions on remissions under this policy will be delegated to officers as set out in Council's delegation resolution.
- Application for a remission or postponement must be made in writing and where practicable should be made prior to the commencement of the rating year.
- Owners or trustees making applications should include the following information in their applications:
 - (i) Details of the rating unit or units involved
 - (ii) Documentation that shows that the land qualifies as land whose beneficial ownership has been determined by a freehold order issued by the Māori Land Court
 - (iii) Supporting information to demonstrate that the remission will help achieve the policy objective.
- Relief, and the extent thereof, is at the sole discretion of Bay of Plenty Regional Council and may be cancelled or reduced at any time if new relevant information is discovered and confirmed.
- Council may approve a multi-year remission if the ratepayer(s) provides an undertaking to notify Council of any changes in circumstance that may affect the remission.
- Properties that are non-rateable under the LGRA will be recorded as such in the Rating Information Database so that rates are not assessed on that property.